

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

RACHEL MEYERS,

Plaintiff,

-against-

PORT AUTHORITY TRANS-HUDSON; PORT
AUTHORITY OF NY/NJ; THE
BROTHERHOOD OF LOCOMOTIVE
ENGINEERS AND TRAINMEN; CORBETT
MILLARD; MOYAAH PHILLIPS; DAVID
VOLK; RAISHEA HAINES; ARTHUR
BLAKEY; NICHOLAS McCARTHY, CARLOS
PROANO,

Defendants.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 12/9/2020

20-CV-9645 (VSB)

ORDER OF SERVICE

VERNON S. BRODERICK, United States District Judge:

Plaintiff brings this *pro se* action under Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e to 2000e-17, the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12112-12117, and the New York State Human Rights Law, N.Y. Exec. Law §§ 290 to 297, alleging that her employer discriminated against her based on her race, gender, pregnancy, and perceived disability. The complaint could also be construed to allege claims under the Labor Management Relations Act, 29 U.S.C. § 158, and the National Labor Relations Act, 29 U.S.C. § 185(a), *et seq.*, that Plaintiff's employer breached the applicable collective bargaining agreement with her union, and that the union failed in its duty to fairly represent her. By order dated November 19, 2020, the Court granted Plaintiff's request to proceed *in forma pauperis* (IFP). (Doc. 3.)

Because Plaintiff has been granted permission to proceed IFP, she is entitled to rely on the Court and the U.S. Marshals Service to effect service. *Walker v. Schult*, 717 F.3d 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) ("The officers of the court shall issue and serve all process . . . in [IFP] cases."); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals

Service to serve if the plaintiff is authorized to proceed IFP). Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that the summons and complaint be served within 90 days of the date the complaint is filed, Plaintiff is proceeding IFP and could not have served the summons and complaint until the Court reviewed the complaint and ordered that a summons be issued. The Court therefore extends the time to serve until 90 days after the date the summons is issued. If the complaint is not served within that time, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff's responsibility to request an extension of time for service); *see also Murray v. Pataki*, 378 F. App'x 50, 52 (2d Cir. 2010) ("As long as the [plaintiff proceeding IFP] provides the information necessary to identify the defendant, the Marshals' failure to effect service automatically constitutes 'good cause' for an extension of time within the meaning of Rule 4(m).").

To allow Plaintiff to effect service on Defendants Port Authority Trans-Hudson (PATH); Port Authority of NY/NJ; The Brotherhood of Locomotives Engineers and Trainmen (BLET); Corbett Millard; Moyaah Phillips; David Volk; Raishea Haines; Arthur Blakey; Nicholas McCarthy, and Carlos Proano through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form (USM-285 form) for each of these defendants. The Clerk of Court is further instructed to issue a summons and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon these defendants.

Plaintiff must notify the Court in writing if her address changes, and the Court may dismiss the action if Plaintiff fails to do so.

CONCLUSION

The Clerk of Court is directed to mail a copy of this order to Plaintiff, together with an information package.

The Clerk of Court is further instructed to complete the USM-285 forms with the addresses for PATH; Port Authority of NY/NJ; BLET; Corbett Millard; Moyaah Phillips; David Volk; Raishea Haines; Arthur Blakey; Nicholas McCarthy, and Carlos Proano and deliver all documents necessary to effect service to the U.S. Marshals Service.

SO ORDERED.

Dated: December 9, 2020
New York, New York

A handwritten signature in black ink, reading "Vernon Broderick". The signature is written in a cursive style with a large initial "V".

Vernon S. Broderick
United States District Judge

DEFENDANTS AND SERVICE ADDRESSES

1. Port Authority Trans Hudson
1 Path Plaza, 7th Floor
Jersey City, N.J. 07306
2. Corbett Millard
Safety Instructor
1 Path Plaza, 7th Floor
Jersey City, N.J. 07306
3. Moyaah Phillips
Safety Instructor
1 Path Plaza, 7th Floor
Jersey City, N.J. 07306
4. David Volk
1 Path Plaza, 7th Floor
Jersey City, N.J. 07306
5. Raishea Haines
1 Path Plaza, 7th Floor
Jersey City, N.J. 07306
6. Carlos Proano
1 Path Plaza, 7th Floor
Jersey City, N.J. 07306
7. Port Authority of NY/NJ
4 World Trade Center, 16th Floor
New York, N.Y. 10007
8. Nicholas McCarthy
204 Deer Trail Drive
Saylorsburg PA. 18353
9. Arthur Blakey
191 Willoughby Street Apt. 4H
Brooklyn, N.Y. 11201
10. Brotherhood of Locomotives, Engineers; and Trainmen
17 Acorn Drive
Clark, N.Y. 07066